

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-280

April 6, 2000

MAINE PUBLIC UTILITIES COMMISSION
Transmission and Distribution Conservation
Implementation Plans

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

On March 17, 2000, the State Planning Office (SPO) submitted a letter to the Commission describing an Interim Conservation Program for Central Maine Power Company (CMP). As explained below, the Commission waives the service provider bidding requirements for CMP to operate an energy efficiency program for commercial and industrial customers with usage of up to 1,000 kW, based on the recommendation of SPO. The Commission also affirms that the spending level for CMP is .15 cent per kWh.

II. BACKGROUND

As part of the restructuring of the electric industry, the Legislature established a new process for implementing conservation programs by transmission and distribution utilities. Under the new process, the State Planning Office will create objectives and overall energy strategy for statewide conservation programs to be implemented by transmission and distribution utilities. SPO will then review and approve proposed utility implementation plans, including proposed competitive bidding plans, to ensure they are consistent with those objectives. 5 M.R.S.A. § 3305-B(2).

The Commission's role is limited to two areas: bidding and funding levels. T&D utilities must select conservation service providers through a periodic competitive bidding process. The Commission can waive this requirement if the selection of a service provider through other means is consistent with the programs developed by the SPO and it is in the best interests of the State. 35-A M.R.S.A. § 3211(3); Chapter 380 § 2(D). The statute requires conservation spending equal to 0.5% of T&D revenues. However, the Commission can establish higher spending levels up to .15 cents per kWh, upon the recommendation of SPO. 35-A M.R.S.A. § 3211(4); Chapter 380 § 3.

SPO has reviewed and approved an Interim Conservation Program for CMP that will be in effect until December 2000. This Interim Program will be available while SPO develops new Statewide conservation programs.

Under the Interim Program, CMP will offer three programs. Two programs use contractors selected through competitive bids. CMP would operate Residential Bundle-Up under its current contract with two CAPs and one private contractor. These contractors were originally selected pursuant to competitive bids. CMP would also seek bids for a new weatherization program for residential low-income customers. Under the Interim Program, CMP would continue to operate a program similar to its Small and Medium Commercial Customer Energy Efficiency Program (CMP Terms & Condition, Section 38) and its Strategic Partnering Program (CMP Terms & Conditions, Section 36), for customers with usage up to 1,000 kW. This program would not be put out to bid.

The SPO also recommends a CMP conservation spending level of .15 cent per kWh. SPO notes that the Commission has already included this level of spending in CMP's rates approved in its recently concluded rate case.

Our staff recommends that we grant the bidding waiver. It solicited comments on its recommendation from interested persons. The Public Advocate, CMP and SESCO filed comments.

III. COMMENTS

The Public Advocate proposes no change in the Interim Conservation Program submitted by SPO. OPA did question whether the assessment for the SPO was incorporated separately into CMP's rates, in addition to .15 cent per kWh spending target.

SESCO objects to the Program because the allocation of funds does not maintain spending in a manner comparable to prior years; the amount put out to bid for the low-income services is too low; and waiving bidding will not achieve the lowest possible prices. SESCO urges the Commission to exercise greater authority over the implementation of energy conservation programs.

CMP requests that the recommended decision be clarified to make clear that under the Interim Program, CMP proposes to offer a program to customers with usage up to 1,000 kW (rather than 400 kW).

IV. DECISION

A. Bidding Waiver

The SPO has approved the Interim Program for CMP. SPO states that the plan provides a balanced allocation of funds across customer types and conservation opportunities and is consistent with available funding. The Commission's role is to determine whether it is appropriate to waive the bidding requirement for CMP

to operate a program for customers with usage up to 1,000 kW. We conclude that it is. Since 1997, CMP has operated two programs similar to the one proposed. Under the Medium Commercial Energy Efficiency Program and the Strategic Partnering Program, most customer rebates have been for lighting improvements. Typically, independent contractors work with customers on a design and then assist the customer in submitting the application for financial incentives available from CMP.¹ Given that the program will be a rebate program available to all independent contractors and that the industry is already accustomed to working with the current programs, it is in the public interest to waive the competitive bidding requirement for this one-year time period, as permitted under 35-A M.R.S.A. § 3211(3). CMP should submit terms and conditions (or modify its current terms and conditions) to reflect this offering.

The concerns raised by SESCO primarily relate to the allocation of funds among customer classes. First, we emphasize that our approval only relates to the Interim Program for the remainder of this year. Second, we observe that only \$666,000 is available to spend on programs after CMP pays its Power Partners' commitments and the assessment to fund SPO.² The Interim Program divides the funding equally between residential and commercial and industrial customers, with almost half of the residential spending designated for low income. The Interim Plan appears to be reasonable given the limited funds and time available.

The Legislature has designated the SPO to decide which programs will be run and how the available funds should be allocated among programs. We understand that SPO will soon start the process for developing statewide conservation programs for implementation in the year 2001. The Commission will provide technical assistance in that effort. However, the Commission is not authorized to "second guess" the programs put forth by SPO. If SPO or other interested persons request a waiver of the bidding requirements, or if SPO requests that the funding level increase from the floor established by statute, the Commission will consider the request and seek comments from interested persons before making its decision. Anyone interested in program choice and the funds allocated to those programs should contact the State Planning Office to ensure they are included in its process.

¹ As noted by SPO, Combined Energies, a unit of CMP's unregulated affiliate Union Water Power, is eligible to participate in these programs. SPO states that CMP has assured SPO that it provides no preferential treatment to Combined Energies. To date this does not appear to be an issue of concern. Of 225 projects funded in both programs as of December 31, 1999, Combined Energies participated in only one. Combined Energy has not participated in the Bundle Up Program. Any preferential treatment is prohibited under 35-A M.R.S.A. § 713.

² In response to the issue raised by OPA, no separate amount was allowed in rates for the SPO assessment.

B. Spending Level

SPO recommends a funding level of .15 cent per kilowatt. Because the Commission has allowed .15 cent per kWh in CMP's rates, the Commission has already determined that this is the appropriate level pursuant to 35-A M.R.S.A. § 3211(4). Therefore, no further Commission action is needed with regard to funding level.

Dated at Augusta, Maine, this 6th day of April, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.